

REPORT

DATE: October 5, 2006

TO: Regional Council and Administration Committee

FROM: Danny Wu, AICP, Program Manager for Goods Movement
Phone: (213) 236-1930, Email: wu@scag.ca.gov

SUBJECT: Southern California National Freight Gateway Strategy Memorandum of Understanding (MOU)

EXECUTIVE DIRECTOR'S APPROVAL:



RECOMMENDED ACTION:

Authorize the Executive Director to negotiate and sign the Final Southern California National Freight Gateway Strategy MOU.

SUMMARY:

On September 14, 2006, the Transportation and Communications Committee voted in support of the concept for a Southern California National Freight Gateway Strategy Memorandum of Understanding (MOU), and to bring it before the Regional Council for its approval at the October 2006 meeting.

The core principles of the MOU are as follows:

- Highlight the Southern California region's critical role as the national gateway for goods movement and the associated challenges to communities throughout the region in terms of infrastructure, public health and air quality impacts;
- Ensure proactive involvement from the appropriate state and federal agencies in streamlining the environmental review/approval process; and,
- Establish a formal process through which state and federal agencies would share responsibility and work collaboratively with Southern California transportation agencies to address the region's infrastructure needs, environmental effects, and community impacts of increasing goods movement through the "Southern California National Freight Gateway," which extends from the San Pedro Bay Ports to the cities of Barstow and Indio, California.

While there will be, predictably, further minor revisions to the language in the MOU, the latest copy of the MOU is attached for your review. The MOU establishes SCAG, Metro, the Orange County Transportation Authority, Riverside County Transportation Commission, San Bernardino Associated Governments, Ventura County Transportation Commission, and the Ports of Los Angeles and Long Beach, along with key state and federal resource and regulatory agencies as the "Principal Conveners" to cooperate in the development of a framework strategy to address the region's goods movement challenges. In addition, the MOU encourages ongoing public participation as required by law.

REPORT

The signatories to the MOU will work collaboratively to develop a Phase I Scoping Report to be submitted to the United States Secretary of Transportation and to the Governor of California by January 30, 2007. This report will include the protocols for MOU implementation – procedures for working collaboratively and expeditiously to address the goods movement infrastructure, environmental and community concerns. Furthermore, Senator Diane Feinstein's office has expressed an interest in facilitating a signing ceremony in October to execute the MOU.

BACKGROUND:

For the past several months, the Executive Director of SCAG and the Chief Executive Officers of the five County Transportation Commissions (CTCs) have been discussing the need for greater collaboration among state, federal, and local agencies responsible for goods movement. Principally, there is a growing realization that early and active involvement by key federal and state agencies in the formulation of the freight movement and environmental strategy is critical to solving the region's goods movement challenges. Much of the region's burdens associated with the movement of goods are attributable to factors outside of the region's direct control, chiefly involving federal trade policies.

In January 2006, a delegation of SCAG and SANBAG staff went to Washington, DC and was successful in generating commitments from high-level representatives of the U.S. Department of Transportation, Department of Interior, U.S. Trade Representative, U.S. Fish and Wildlife Service, and the U.S. Environmental Protection Agency to enter into negotiations on an MOU with regional and state agencies. Since then, efforts have focused principally on obtaining similar commitments from key state agencies, including the Business, Transportation and Housing and the California Environmental Protection Agency.

To complete the facilitation and execution of the MOU, SCAG has contributed a budgeted \$10,000 and each of the five CTCs are expected to contribute \$5,000 towards the procurement of a consultant to serve as a neutral facilitator of this MOU. Lindell L. Marsh was selected as the facilitator through a competitive bid process. SCAG will manage the consultant contract and administer the collaborative process under the direction of the "Principal Conveners".

FISCAL IMPACT:

There is no financial impact to SCAG with the approval of this recommendation. This MOU does not obligate nor commit State or Federal funds and will not give rise to claim for State or Federal funds. The cost for consultant services to facilitate the execution of this MOU and for staff support will be funded out of this year's OWP work element numbers WBS 06-130.scgc14 and WBS 07-130.scgs1, respectively, along with matching funds provided by the CTCs.

**SOUTHERN CALIFORNIA
NATIONAL FREIGHT GATEWAY STRATEGY**

**MEMORANDUM OF UNDERSTANDING
AMONG FEDERAL, STATE, REGIONAL AND LOCAL AGENCIES**

October __, 2006

This Memorandum of Understanding (“MOU”) is entered into as of October __, 2006 by the undersigned federal, state and local agencies to provide for the cooperative development of a framework strategy to address environmental and community concerns, issues and opportunities relating to the increasing movement of imported goods within the “Southern California National Freight Gateway” area of the Los Angeles Metropolitan region extending from the Ports in San Pedro Bay and the Port of Hueneme to the cities of Barstow and Indio, California (“National Freight Gateway Area” or “Area”).

I. RECITALS.

Acronyms are defined below.¹

Whereas, the San Pedro Bay Ports of Los Angeles and Long Beach are the largest port complex in the Nation and fifth largest in the world. *Together, they process 14.2 million twenty foot equivalent units of containers (“TEUs”), 44% of all the imported goods entering the Nation, with only 30% of these goods being consumed within the region and 70% being distributed primarily by truck and rail nation-wide. The number of TEUs processed per year is projected to increase to 42 million TEUs by 2030. The freight being moved annually has a value of \$200 billion, supports 2 million jobs, and generates \$16.4 billion in state and local taxes.*

Whereas, the population of the National Freight Gateway Area has been projected to increase from 18.1 to 22.9 million by 2030 (an increase of 4.8 million or 25.6% within 24 years), with significant demands on the capacity of the region’s transportation infrastructure, *independent of any consideration of the increasing movement of freight.*

Whereas, the port of Hueneme is the only deep water harbor between Los Angeles and the San Francisco Bay area and is the U.S. Port of Entry for California’s central coast region. It serves international businesses and ocean carriers from the Pacific Rim and Europe. The Port of Hueneme ranks among the top seaports in California for general cargo throughput. The niche markets that Hueneme serves include: the import and export of automobiles, fresh fruit and produce, and forest products. The Port of Hueneme is the top seaport in the United States for citrus export and ranks among the ten ports in the country for automobile and banana imports. By 2020 it is estimated that total port tonnage will range between 3.4 million and 6 million

metric tons. Its unique positioning near the Santa Barbara Channel also made the Port of Hueneme the primary support facility for the offshore oil industry in the Central Coast area.

Whereas, the regional freeway and railway systems within the Area are already severely congested, with insufficient funding identified to even maintain existing infrastructure. Combined increases in population and freight volumes will significantly worsen congestion on freeways and railways and will increase the need for major new and upgraded infrastructure and increase the costs of on-going maintenance and repair. The Southern California Association of Governments' Regional Transportation Plan anticipates that daily truck traffic serving the Ports will increase from 54,600 trips in 2005 to 142,000 in 2030 and *daily* freight and passenger train traffic will increase from 176 trains in 2000 to 265 to 390 in 2025 and 441 in 2030.

Whereas, the increase in freight movement offers significant economic opportunities to the region in the form of additional business, more and better quality of jobs, and enhanced local, State and federal tax revenues.

Whereas, without major mitigation and State and federal assistance and action, the existing levels, as well as anticipated increases, of freight movement within the Area are resulting in, and threaten further, significant and adverse impacts to its communities and the environment (including but not limited to air and water quality and natural lands and wildlife) and to the health, safety and quality of life of its population. Of particular and major concern are the adverse impacts on air quality by diesel emissions from trucks, trains and ships, and the various related infrastructure and operations, which are the subject of the various plans described below. These impacts are required to be mitigated under the regulatory and policy quilt of current and future State Implementation Plans, Regional Transportation Plans (which must be found to be in conformance with the SIP), State and Federal air quality laws (e.g., with respect to emission thresholds and air toxics) and the National Environmental Policy Act of 1969 (NEPA) and the California Environmental Quality Act (CEQA). The design and implementation of such mitigation will be a daunting challenge.

Whereas, NEPA and CEQA, authorize and encourage coordination and collaboration among local, state and federal agencies and interests (including effective leadership and public participation) in addressing challenges such as those posed by the anticipated increase in goods movement and its impacts on the environment.

Whereas, USDOT, under its recently promulgated *National Strategy to Reduce Congestion on America's Transportation Network*, has established a Southern California "Inter-modal Hot Spot Team", focused on targeting major freight bottlenecks and expanding public outreach in order to assist in convening the constituency of agencies and interests, and, pursuant to Presidential Executive Order 13274, it is designating the Southern California National Freight Gateway a focused area of projects that qualify for coordinated federal agency decision-making.

Whereas, California Governor Arnold Schwarzenegger has issued an executive order, dated September __, 2006, regarding the Southern California National Gateway Strategy which directs State agencies to cooperate and, where appropriate, collaborate with federal, regional and local

agencies in addressing goods movement within the National Freight Gateway Area and related community and environmental impacts.

Whereas, CBTH and CEPA are developing a State Goods Movement Action Plan (“State GMAP”) and pursuant to the Safe Accountable Flexible Efficient Transportation Equity Act: A Legacy for Users (“SAFETEA-LU”; Pub. Law 109-59, 2005; 23 U.S.C. §327), the State has assumed certain responsibilities of the Secretary of Transportation for compliance with NEPA in connection with certain surface transportation projects within California; and, it is anticipated and intended that this MOU will be consistent with and promote the expeditious implementation of the State GMAP.

Whereas, the Ports, SCAG and the CTCs, individually and in some cases collaboratively, are in the process of conducting studies, preparing plans (including, e.g., the San Pedro Ports Clean Air Action Plan, the CTCs/SCAG Multi-County Goods Movement Action Plan, and the updating of SCAG’s Regional Transportation Plan) and undertaking projects to address goods movement and related environmental and community impacts within the National Freight Gateway Area.

Whereas, there are significant delays, inefficiencies, increases in costs and the loss of opportunities resulting from the current fragmented and complex local, state and federal governance systems, processes and practices for planning, designing, funding, implementing and constructing regional freight movement and transportation projects and the regulation thereof for other and related public concerns.

Whereas, the parties now desire through this MOU to establish a process by, among other things, providing for increased cooperation and collaboration among the constituency of affected local, state and national agencies and interests in addressing goods movement and related environmental and community impacts within the National Freight Gateway Area.

II. FURTHER DEVELOPMENT AND IMPLEMENTATION OF A SOUTHERN CALIFORNIA NATIONAL FREIGHT GATEWAY STRATEGY

Based on the foregoing and pursuant to, among other things, the above-mentioned acts and orders, and at the request of Governor Schwarzenegger, CBTH, CEPA and Cal Resources, USDOT, USEPA, USDOJ, USACOE, SCAG, the CTCs, and the Ports, will act as “Principal Conveners” a process referred to in this MOU as the Framework Strategy in convening and managing, as set forth below, a process among affected federal, state, and local agencies and interests and the public, to collaboratively and expeditiously address goods movement and related community and environmental effects within the National Freight Gateway Area in order for Southern California to fulfill its national responsibility to provide and support the conveyance of goods to the rest of the Nation, in a manner, however, that fully addresses and mitigates all adverse community, air quality and environmental effects and impacts.

A. Scoping of the Strategy.

Among other efforts, no later than January 30, 2007, the Principal Conveners shall deliver to the Governor and United States Secretary for Transportation a Phase I Scoping Report. This Report will clearly provide: (i) a preliminary outline of the decision-making and environmental review processes necessary to expeditiously advance the region's objectives of providing goods movement throughput consistent and together with the mitigation of adverse community and environmental impacts and, (ii) the protocols and procedures, schedule and budget for their work in further assisting the constituency of affected agencies and interests to cooperate in the development and implementation of the Framework Strategy.

SCAG will administer the process under the direction of the Principal Conveners. Concurrent with the taking effect of this MOU, and from time to time thereafter, the Principal Conveners may establish informal operating procedures and rules of order, including, the establishment of a chairperson or co-chairpersons and executive committee for the effort. The Principal Conveners have committed the necessary resources through Phase I of the process. It is anticipated that the Framework Strategy will be developed incrementally and will include elements that can be implemented by individual agencies or agencies acting in collaboration and will take into consideration current and past efforts. Local and public input will be critical.

The process provided for is intended only to promote cooperation, coordination and collaboration, where appropriate, among the various affected public local, state and federal agencies in carrying out their individual responsibilities and the private sector and not to limit, increase or affect the authority of any agency under the law.

B. Participation by Public Agencies and Public and Private Organizations.

Other public and private agencies and organizations may become "Participants" in the process under this MOU, as determined appropriate by the Principal Conveners, by providing notice in writing to SCAG. In addition, public participation shall be encouraged and provided for as required by law.

C. Early cooperative efforts of Participants.

The Principal Conveners will cooperate with respect to the consideration and implementation of current goods movement infrastructure projects in accordance with existing laws and regulations.

III. MISCELLANEOUS PROVISIONS.

A. Designation of Representatives.

Each Principal Convener shall designate a person to serve at its pleasure and represent it under and for the purposes of this MOU by notification in writing to SCAG for the Principal Conveners.

B. No Obligation to Provide Funding.

The commitment to participate under this MOU is subject to existing authorities and the availability of funds. This MOU does not obligate nor commit local, State or Federal funds and will not give rise to a claim for local, State or Federal funds. Any activity involving reimbursement or contribution of funds between the parties to this MOU must be independently authorized by law and will be subject to applicable laws, regulations, and procedures.

C. Non-binding.

Notwithstanding any other provision of this MOU, this MOU will take effect upon its signing (as a single original or in counter-parts) by all of the Principal Conveners and is intended to: (i) state the intent of the parties in order to provide an informal basis for coordination among them and is and shall not be legally binding on any party for any purpose; and, (ii) shall be interpreted to be consistent with applicable provisions of State and Federal law.

D. Amendments; Termination.

Any amendment to this MOU shall be effective as to a party only if agreed to in writing by that party. Any party to this MOU may terminate its participation hereunder by written notice to the SCAG for the Principal Conveners.

IN WITNESS WHEREOF, the parties have signed this MOU on the dates set forth below their signatures.

PRINCIPAL CONVENERs

[The following signature blocks should be revised and completed by the individual agencies]

FEDERAL AGENCIES

 Department of Transportation
 Dated: _____

 _____,

Assistant Administrator for Air and
 Radiation
 Environmental Protection Agency
 Dated: _____

 Assistant Secretary for Fish, Wildlife and
 Parks
 Department of the Interior
 Dated: _____

 Assistant Secretary of the Army
 for Civil Works

United States Army Corps of Engineers
Dated: _____

STATE OF CALIFORNIA

Business, Transportation and Housing
Dated: _____

California Resources Agency
Dated: _____

Environmental Protection Agency
Dated: _____

REGIONAL/LOCAL AGENCIES

Southern California Association of
Governments
Dated: _____

“CTCs”

Los Angeles County Metropolitan
Transportation Authority
Dated: _____

San Bernardino Associated Governments
Dated: _____

Riverside County Transportation
Commission
Dated: _____

Orange County Transportation Authority
Dated: _____

Ventura County Transportation
Commission.

Dated: _____

SCAQMD: South Coast Air Quality Management District
SCAG: Southern California Association of Governments
USDOT: United States Department of Transportation
USEPA: United States Environmental Protection Agency
VCTC: Ventura County Transportation Commission
USACOE United State Army Corps Of Engineers

Imperial County

Dated: _____

“Ports”

Long Beach Board of Harbor
Commissioners

Dated: _____

Los Angeles Board of Harbor
Commissioners

Dated: _____

Port of Hueneme, Oxnard Harbor District

Dated: _____

1 **Acronyms:**

CARB: Calif. Air Resources Board
CBTH: Calif. Business, Transportation and Housing
Agency
CEPA: Calif. Environmental Protection Agency
CTCs: County Transportation Commissions including:
MTA, OCTA, RCTC, SANBAG. VCTC and IC
DOI: United States Department of the Interior
IC: County of Imperial
LAEDC: Los Angeles Economic Development Corporation
MTA: Los Angeles Metropolitan Transportation Authority
OCTA: Orange County Transportation Agency
Ports: Port of Los Angeles and Port of Long Beach
RCTC: Riverside County Transportation Commission
SANBAG: San Bernardino Associated Governments